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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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12
13 LISA MARIE HREN FAZZINO,

14 Petitioner,

15 v.

16 SUPERIOR COURT OF THE
17 STATE OF CALIFORNIA, et al.,

18 Respondent.
19

Case No. ED CV 24-7 WLH (MRW)

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

20 The Court summarily dismisses this action without prejudice under
21 the Younger abstention doctrine.
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* * *

23 1. Petitioner is a pretrial detainee in a San Bernardino county
24 jail. She is awaiting trial on gun and drug criminal charges. (Docket # 1
25 at 9-10.)

26 2. In pretrial proceedings, Petitioner's criminal defense lawyer
27 filed several motions for discovery regarding a local search warrant and the
28 use of an informant in the criminal investigation. The superior court

1 denied the pretrial motions. (Id. at 10.) The state appellate and supreme
 2 courts subsequently denied relief in various writ and review proceedings.
 3 (Id. at 10-11.)

4 3. Petitioner (through her defense lawyer in the pending state
 5 criminal case) then initiated this federal habeas corpus action. Petitioner
 6 contends that this federal court has jurisdiction under 28 U.S.C. § 2251.
 7 (Id. at 8.) Petitioner further contends that the state court pretrial
 8 discovery decisions violated her rights under the First, Fourth, Fifth, Sixth,
 9 and Fourteenth Amendments of the U.S. Constitution. (Id. at 7, 12.)

10 4. Magistrate Judge Wilner preliminarily reviewed the
 11 petition. (Docket # 5.) Judge Wilner directed Petitioner to explain why
 12 this federal court could properly hear her claims in light of Younger
 13 preemption concerns. Petitioner's lawyer submitted a memorandum
 14 suggesting, inter alia, that the alleged violation of Petitioner's pretrial
 15 discovery rights warrants immediate federal review.¹ (Docket # 7.)

16 * * *

17 5. If it "appears from the application that the applicant or person
 18 detained is not entitled" to habeas relief, a court may summarily dismiss a
 19 habeas action. 28 U.S.C. § 2243; see also Rule 4 of Rules Governing
 20 Section 2254 Cases in United States District Courts (petition may be
 21 summarily dismissed if petitioner plainly not entitled to relief)²; Local Civil

22 ¹ Judge Wilner also noted Petitioner's use of Section 2251 (primarily
 23 applied to halt imposition of the death penalty in state capital cases) as a basis
 24 for federal court jurisdiction here. Petitioner backtracked on the assertion that
 25 the capital stay provision provided a meaningful basis for jurisdiction. Instead,
 26 Petitioner now contends that the Court could construe the petition under the
 more general habeas statute at 28 U.S.C. § 2241. (Docket # 7 at 2-3.) Regardless
 of the jurisdictional provision that Petitioner asserts, the Younger issues
 discussed below compel dismissal of the action before the Court reaches the
 merits of any of Petitioner's claims.

27 ² Rule 1(b) of the Rules Governing Section 2254 Cases states that a
 28 district court "may apply any or all of these rules to a habeas corpus petition"

1 Rule 72-3.2 (magistrate judge may submit proposed order for summary
2 dismissal to district judge “if it plainly appears from the face of the petition
3 [] that the petitioner is not entitled to relief”).

4 * * *

5 6. Federal courts generally abstain from interfering with pending
6 state criminal proceedings until the conviction becomes final following the
7 conclusion of appellate proceedings. Younger v. Harris, 401 U.S. 37, 45
8 (1971); Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484,
9 489 (1973) (same).

10 7. Younger abstention “is appropriate if (1) there are ongoing
11 state judicial proceedings, (2) the proceedings implicate important state
12 interests, and (3) there is adequate opportunity in the state proceedings to
13 raise federal questions.” Dubinka v. Judges of Superior Court, 23 F.3d 218,
14 223 (9th Cir. 1994); Sheehee v. Baca, 588 F. App’x 716 (9th Cir. 2014)
15 (same). Additionally, federal courts should abstain when “the requested
16 relief seeks to enjoin or has the practical effect of enjoining the ongoing
17 state judicial proceeding.” Page v. King, 932 F.3d 898, 902 (9th Cir. 2019).
18 To that end, federal courts recognize that “the States’ interest in
19 administering their criminal justice systems free from federal interference
20 is one of the most powerful of the considerations that should influence a
21 court considering equitable types of relief.” Kelly v. Robinson, 479 U.S. 36,
22 49 (1986).

23 8. There are few exceptions to the Younger rule. A prisoner may
24 seek pre-conviction habeas relief in federal court by demonstrating
25 “extraordinary circumstances” such as “cases of proven harassment or
26 prosecutions undertaken by state officials in bad faith without hope of

27 _____
28 beyond those expressly brought under AEDPA / 28 U.S.C. § 2254 (federal review
of state court convictions and final judgments).

obtaining a valid conviction.” Brown v. Ahern, 676 F.3d 899, 903 (9th Cir. 2012). Additionally, an inmate may demonstrate that she or he faces “irreparable harm” as a result of the ongoing state proceeding. Bean v. Matteucci, 986 F.3d 1128, 1133 (9th Cir. 2021). Irreparable harm may be found when a prisoner: (a) raises a “colorable claim of double jeopardy,” Stanley v. Baca, 555 F. App’x 707, 708 (9th Cir. 2014) (quoting Mannes v. Gillespie, 967 F.2d 1310, 1312 (9th Cir. 1992)); (b) challenges his continued detention in a civil sexually violent predator proceeding, Page, 932 F.3d at 902; or (c) faces “the forcible injection of antipsychotic drugs” following the conclusion of Sell proceedings in state court. Bean, 986 F.3d at 1134-36.

* * *

9. Petitioner fails to meet these rigorous standards. Petitioner has not been tried or convicted yet. The state therefore has a strong interest in prosecuting this case without federal court intervention or delay. Kelly, 479 U.S. at 49. Petitioner has not convincingly established that she lacks the opportunity to raise her constitutional claims in her ongoing state criminal case or on appeal, as in the normal course of criminal litigation.³ Dubinka, 23 F.3d at 224.

10. Further, her complaints about access to pretrial discovery in an ordinary gun-and-drug possession case do not suggest that she faces irreparable harm in any way different than the typical criminal defendant. Her claim of alleged discovery errors do not approach the significance of

³ Petitioner contends that she unsuccessfully pursued pretrial appeals and writs in state court regarding her discovery requests. That is insufficient to establish that she has no meaningful remedy. Merely losing a motion or interlocutory appeal in state court does not entitle her to federal court review under, or as an exception to, Younger. Page, 932 F.3d at 904 (ordinary trial errors “can be vindicated through reversal of the improperly-obtained conviction” on appeal).


1 proven bad faith conduct by local officials, forced medications, or indefinite
2 detention of a sexually violent predator. Brown, 676 F.3d at 901; Stanley,
3 555 F. App'x at 708; Page, 932 F.3d at 902; Bean, 986 F.3d at 1134-36.

4 11. Accordingly, Younger abstention “requires dismissal of a
5 habeas petition that prematurely” raises allegations of constitutional
6 injury. Brown, 676 F.3d at 903; Braden, 410 U.S. at 489.


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8 Therefore, the present action is hereby **DISMISSED** without
9 prejudice.

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11 **IT IS SO ORDERED.**

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13 Dated: May 10, 2024

14 
15 HON. WESLEY L. HSU
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

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20 HON. MICHAEL R. WILNER
21 UNITED STATES MAGISTRATE JUDGE
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